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OFFICE OF PETITIONS

In re Application of	:	
Seidita	:	
Application No. 10/771,614	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. CCK-0122	:	

This is a decision on the petition under 37 CFR 1.181, November 14, 2006, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed on April 7, 2005, that required reply within three (3) months of the mail date of the correspondence. No extension of time or reply being received in *this* application, the Office contended it became abandoned on July 8, 2005. A Notice of Abandonment was mailed on November 16, 2005.

Petitioner asserts that a proper response was in fact timely deposited with the USPS on October 7, 2005 and received in the Office on October 13, 2005. In support, petitioner submitted a copy of his itemized, return receipt postcard dated stamped October 13, 2005 by the Office and a copy of the correspondence listed on the postcard – a petition for a three month extension of time, an amendment, and a check for \$1,020.00.

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on October 13, 2005. MPEP 503. The amendment and the extension of time contain proper Rule 1.8 certificates of mailing that attest the correspondence was deposited in first class mail on October 7, 2005. October 7, 2005 was within the extendable period for response to the April 7, 2005 non-final Office action.

A review of the copy of the amendment and extension of time reveals that applicant listed an incorrect application number in the header. Applicant typed: "Application Number: **10/241,416.**" (Emphasis added). It is noted that the instant petition cites the same incorrect application number.

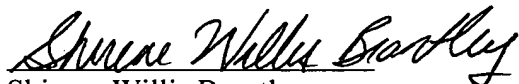
Even though petitioner cited the wrong application number, under MPEP 502, "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number...." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the October 13, 2005 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the correspondence with Office database records would have revealed the error.

Therefore, the response to the April 7, 2005 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

No petition fee has been or will be charged in connection with this matter. The correspondence filed on October 13, 2005 will be moved to application no. 10/771,614. The present petition has already been moved to the correct application file. The \$1,020.00 extension of time fee filed on October 13, 2005 will be moved to application no. 10/771,614's financial records.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3754 for consideration of the amendment filed on October 13, 2005 (certificate of mailing date October 7, 2005).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



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for Patent Examination Policy